

UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

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IN RE:	:	
Dawn Ricca	:	Chapter 13
Debtor	:	Case No.: 16-16575

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OBJECTION TO PROOF OF CLAIM NUMBERED 4-2

COMES NOW, Dawn Ricca, hereinafter referred to as "Debtor," by and through her undersigned counsel, Brad J. Sadek, Esquire, and hereby objects to Proof of Claim number 4-2 filed on behalf of Santander Consumer USA, Inc. ("Santander") and in support thereof avers the following:

1. Debtor filed the instant Chapter 13 Bankruptcy case on or about September 16, 2016.
2. The September 16, 2016 case filing was assigned case number 16-16575.
3. On or about October 7, 2016 Santander filed Proof of Claim numbered 4-1 as a secured claim in the amount of \$15,709.85. A true and correct copy of Claim number 4-1 is attached hereto and labeled as Exhibit "A."
4. On September 7, 2017 an Order for Relief from the Automatic Stay was granted in favor of Santander by this Honorable Court.
5. In furtherance of the Order for Relief from the Automatic Stay the subject 2012 Buick Verano was sold on January 17, 2018 by Santander.
6. On or about February 14, 2018 Santander filed Proof of Claim numbered 4-2 as an unsecured claim in the amount of \$11,697.81. A true and correct copy of Claim number 4-2 is attached hereto and labeled as Exhibit "B."
7. The last date to file a Claim in the instant Bankruptcy matter was January 31, 2017.
8. The February 12, 2018 Claim numbered 4-2 is a late filed proof of claim.
9. Amendments to timely proofs of claims are liberally allowed and may relate back to the initial filing if filed after the bar date, but will not be permitted if they actually constitute new claims. In re Metro Transportation Co., 117 B.R. 143, 147 (Bankr E.D. Pa. 1990).

10. The "amended claim in this case asserts entirely new matter; it is for a deficiency resulting from disposition of collateral. This change is highly significant." In re Hibble, 371 B.R. 730 at 737-38 (Bankr. E.D. Pa. 2007).

11. Moreover, the Motion for Relief by this Honorable Court was granted due to the Debtor's inability to afford the subject vehicle on a regular and monthly basis; the sum in Proof of Claim number 4-2 is approximately seventy five percent of that in claim number 4-1, with no benefit conferred upon the Debtor.

WHEREFORE, Debtor, Dawn Ricca, respectfully requests that this Honorable Court strike the proof of claim numbered 4-2 filed by Santander Consumer USA, Inc. on February 14, 2018 as a late filed claim.

Dated: 6/19/18

  
Brad J. Sadek, Esquire  
Sadek and Cooper  
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